



SOCIAL MEDIA AND THE LAW

WHAT USERS NEED TO KNOW

20 May 2021

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الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
يُونِيسْكَوْ اِيْسْلَامْ اَبْتَارْ اَبْخَسَا مِلْسِيَا

Garden of Knowledge and Virtue

SOCIAL MEDIA AND THE LAW

WHAT USERS NEED TO KNOW



Assoc. Prof. Dr. Sonny Zulhuda,
IIUM

SPEAKERS



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THURSDAY, 20TH MAY, 2021
8PM MYT, 1PM WAT

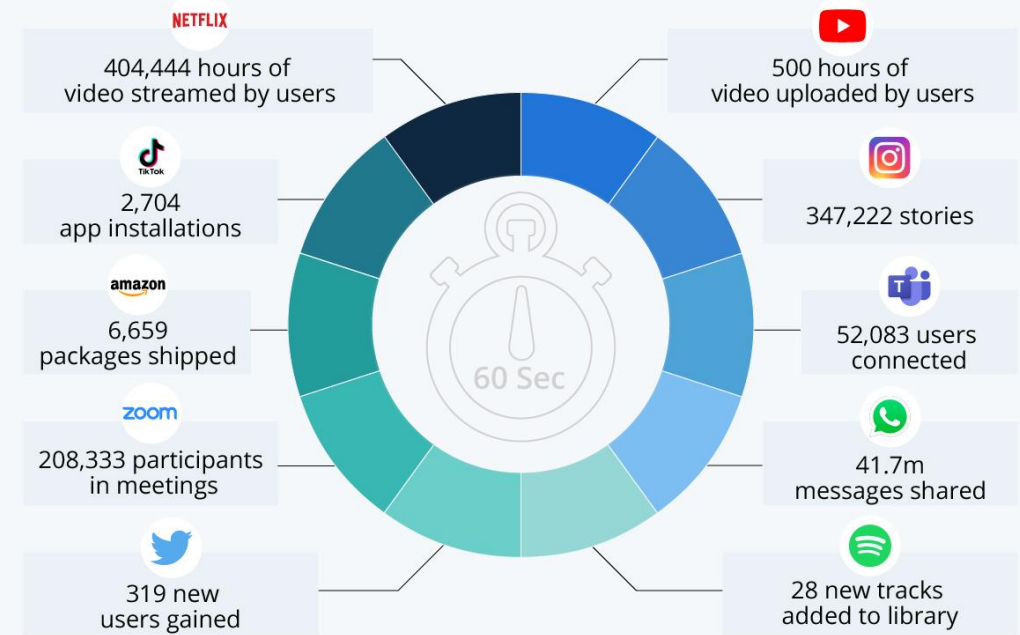
Moderator:
Dr. Sodiq Omoola, IIUM

Presentation Agenda

- 01 Social Media: A Public or Private Domain?
- 02 Content Moderation: Between Law and Self-Regulation
- 03 Social Media in the Age of Surveillance Capitalism

A Minute on the Internet in 2020

Estimated amount of data created
on the internet in one minute



Source: Visual Capitalist



statista

JAN 2020

DIGITAL AROUND THE WORLD IN 2020

THE ESSENTIAL HEADLINE DATA YOU NEED TO UNDERSTAND MOBILE, INTERNET, AND SOCIAL MEDIA USE

TOTAL
POPULATION7.75
BILLIONURBANISATION:
55%UNIQUE MOBILE
PHONE USERS5.19
BILLIONPENETRATION:
67%INTERNET
USERS4.54
BILLIONPENETRATION:
59%ACTIVE SOCIAL
MEDIA USERS3.80
BILLIONPENETRATION:
49%

SOURCES: POPULATION: UNITED NATIONS; LOCAL GOVERNMENT BODIES; MOBILE: GSMA INTELLIGENCE; INTERNET: ITO, GLOBALWEBINDEX; GSMA INTELLIGENCE; LOCAL TELECOMS REGULATORY AUTHORITIES AND GOVERNMENT BODIES; APPI, KEPIOS ANALYSIS; SOCIAL MEDIA: PLATFORMS' SELF-SERVICE ADVERTISING TOOLS; COMPANY ANNOUNCEMENTS AND EARNINGS REPORTS; CAFEBAZAAR; KEPIOS ANALYSIS. ALL LATEST AVAILABLE DATA IN JANUARY 2020. **COMPARABILITY ADVISORY:** SOURCE AND BASE CHANGES.

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JAN 2019

E-COMMERCE SPEND BY CATEGORY

THE TOTAL ANNUAL AMOUNT SPENT ON CONSUMER E-COMMERCE CATEGORIES, IN U.S. DOLLARS

FASHION
& BEAUTY\$771.0
MILLIONTOYS, DIY
& HOBBIES\$486.0
MILLIONELECTRONICS &
PHYSICAL MEDIA\$851.0
MILLIONTRAVEL (INCLUDING
ACCOMMODATION)\$2.759
BILLIONFOOD &
PERSONAL CARE\$483.0
MILLIONDIGITAL
MUSIC\$30.00
MILLIONFURNITURE &
APPLIANCES\$553.0
MILLIONVIDEO
GAMES\$100.0
MILLION

SOURCE: STATISTA DIGITAL MARKET OUTLOOK FOR E-COMMERCE, E-TRAVEL, AND DIGITAL MEDIA INDUSTRIES (ACCESSED JANUARY 2019). **NOTES:** FIGURES ARE BASED ON ESTIMATES OF FULL-YEAR CONSUMER SPEND FOR 2018, EXCLUDING B2B SPEND. FIGURES FOR DIGITAL MUSIC AND VIDEO-GAMES INCLUDE STREAMING. **ADVISORY:** STATISTA HAVE REVISED THEIR FIGURES FOR 2017 SPEND SINCE LAST YEAR, SO THESE FIGURES WILL NOT BE COMPARABLE TO DATA WE REPORTED IN OUR DIGITAL 2018 REPORTS.

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JAN 2020

SHARE OF TIME SPENT IN MOBILE APPS BY CATEGORY

AVERAGE TIME SPENT USING MOBILE DEVICES EACH DAY WORLDWIDE, WITH SHARE OF TIME SPENT IN TOP MOBILE APP CATEGORIES

AVERAGE TIME
SPENT USING MOBILE
DEVICES EACH DAY

3H 40M

SHARE OF MOBILE TIME
SPENT IN SOCIAL &
COMMUNICATIONS APPS

50%

SHARE OF MOBILE TIME
SPENT IN VIDEO &
ENTERTAINMENT APPS

21%

SHARE OF MOBILE TIME
SPENT PLAYING GAMES
(ANY GAME KIND)

9%

SHARE OF MOBILE TIME
SPENT USING OTHER
KINDS OF APPS

19%

SOURCE: APP ANNIIE, "STATE OF MOBILE 2020" (JANUARY 2020). **NOTE:** FIGURES ARE BASED ON USE OF ANDROID DEVICES ONLY. PERCENTAGES DO NOT SUM TO 100% DUE TO ROUNDING.

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Digital Malaysia Outlook:

Ecosystem is ripe ... digital population, connectivity, devices, usage

DIGITAL POPULATION

68% of population
are active
internet users20.6m active
internet users
(out of 30.5m population)

CONNECTIVITY

Household
connection30%
of households2.2m
total
connectionsMobile
connection143%
of population43.4m
total
connections22.7m
unique users

Average of 1.9 connection per user

DEVICES (of adult population)

71%
Smartphones35%
Laptop/desktop14%
Tablet1%
Wearables

USAGE

77%
of active
internet
usersdaily internet
usage4 hours
38 mins

PC/tablet

3 hours
37 mins

Mobile

sonnyzulhuda.com

Source: Malaysia digital outlook (Jan 2016) – McKinsey and Google analysis

IMPERSONATION

ONLINE BULLY

ACCOUNT HACKERS

CYBER TROLL

PHISHERS

FAKENEWS

CYBER FRAUD

HATE SPEECHES

DATA BREACHES

PAEDOPHILES

"In this day and age of Internet where with free flow of information from cyber space, young people are exposed to things which the older generation could not have imagined.

Such exposure had no doubt also made the art of parenthood much more difficult in dealing with such social issues... (and) in some cases, it had made it impossible.

The value of society changes as each year passes by and because of such change, it of course has made the job of Court much more difficult especially on such issues."

per Datuk David Wong Dak Wah J, High Court (Kota Kinabalu) in *Public Prosecutor v Zainuddin bin Adam* [2012] MLJU 684.

Judicial Quotes

"Cyber offences are serious offences, as offensive materials in cyber offences could be easily disseminated to the public at large within seconds at a touch of a button"

Ahmad Bache JC of the High Court (Kota Bharu) in *Nik Adib bin Nik Mat v Public Prosecutor* [2017] MLJU 1831





SOCIAL MEDIA: A PUBLIC OR PRIVATE DOMAIN?



The border is blurred due to the massive functionality of the Social Media as private and public communications



The capability of social media Apps to exchange information turns the “social” into “commercial”



Yet, users still resort to social media as private diary, private archive and private photo album!



The situation is worsened as Users are not well adaptable with the privacy settings of the platform

Content Moderation on/in Social Media



- Subject to law and regulations relating to Internet Content
- In Malaysia: primarily under CMA 1998 (s. 263, s, 233) + Other Laws (e.g. On Press, Sedition, Terrorism, Pornography, Defamation, Contempt of Court)
- But the Media Providers (e.g. FB, YouTube, Instagram) actively moderates the content based on their internal rules a.k.a. “community accepted values” – But, which community?
- This self-regulatory moderation is more massive and is not subject to a democratic legal processes. Often has a tendency to biases.

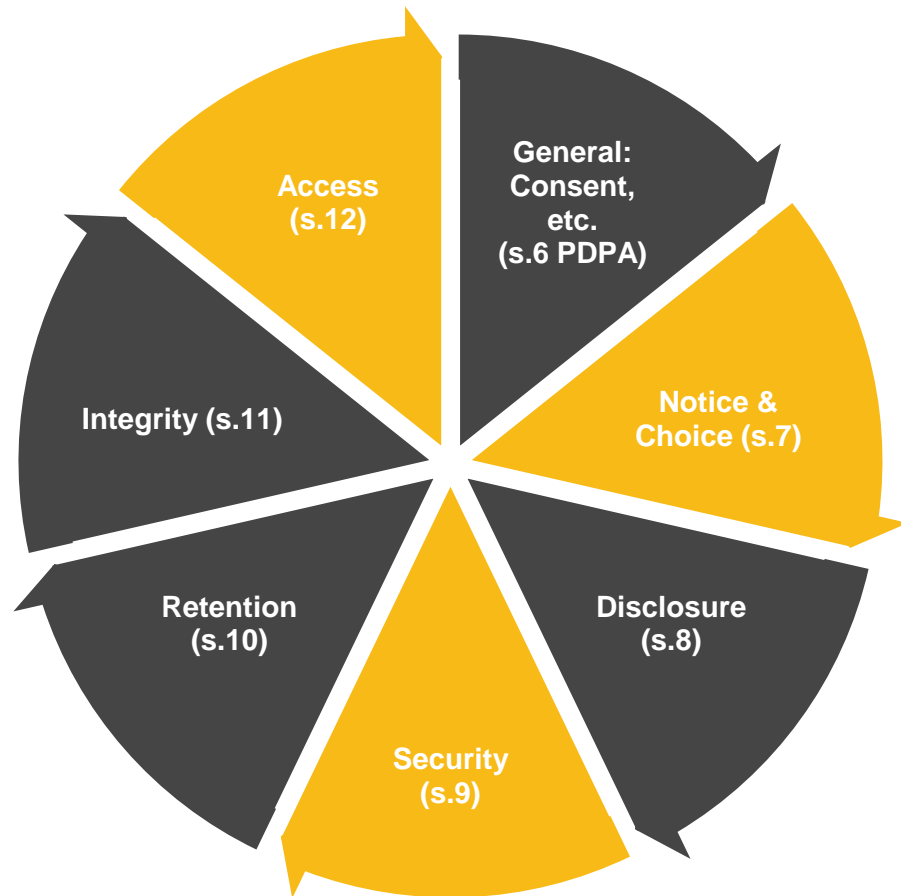
In 2018, the Internet Community endorses the Santa Clara Declaration on Content Moderation, outlining 3 important rules; Number, Notice, Appeal.

Social Media in the Age of Surveillance Capitalism

1. Personal data + Internet of Things + Big data analytics + AI = **Surveillance Capitalism**
2. An economy where data is resources, and personal data is the primary resources. Technology is designed with capability to extract as much as personal data for further gains.
 - Case of Cambridge Analytica (2016)
 - US Executive order banning TikTok (2020)
 - WhatsApp forcing new terms of use (2021)
3. Question: How safe is our personal data in social media?



Data Privacy Law in Malaysia



- Breach of Privacy in Common Law
- Protection of Specific Information under Statute
- Statutory Law on Personal Data Protection
- Protection under contractual instruments

PERSONAL DATA PROTECTION ACT 2010 (Act 709)

The main legislation put in place to impose obligations on the processing of personal data in Malaysia

CONCLUSION



Social Media is both private and public domain depending on the use



Content moderation takes place by virtue of both laws and self-regulatory rules



In this data age and digital economy, personal data is a resource to capitalise and an asset to protect

THANK YOU
TERIMA KASIH

شُكْرًا كَثِيرًا

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